

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America, Plaintiff, v. Samuel Elliott Frey, Defendant.	Case No. 20-cr-129-1 (NEB/HB) ORDER
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HILDY BOWBEER, United States Magistrate Judge

This matter is before the undersigned on Samuel Elliott Frey’s Motion for Competency Hearing [ECF No. 59]. Frey moved for a competency hearing pursuant to 18 U.S.C. § 4241(a) and (b). On October 29, 2020, the Court granted the motion and ordered that a psychiatric or psychological examination of Frey be conducted, and that a psychiatric or psychological report be prepared and filed with the Court, pursuant to 18 U.S.C. § 4241(a) and (b) and § 4247(b) and (c). (Order at 1–2 [ECF No. 62].) The Court advised the parties that upon receipt and review of the report, the Court would decide whether to schedule a hearing pursuant to 18 U.S.C. § 4241(c) and § 4247(d). (*Id.* at 2.)

On June 17, 2021, a Confidential Competency Evaluation Report from Shannon Garrity, Psy.D., was filed under seal with the Court. [ECF No. 92.] The report does not provide “reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to

assist properly in his defense,” pursuant to 18 U.S.C. § 4241(a). Consequently, on June 23, 2021, the Court ordered Frey to advise the Court in a letter filed on CM/ECF whether he accepts the findings in the report and agrees the case may proceed or whether he disagrees with the findings of the report and would like the Court to schedule a competency hearing. [ECF No. 93.] Frey’s counsel filed a letter on June 29, 2021, stating that counsel and Frey had reviewed the Confidential Competency Evaluation Report, accepted the findings of the report, and agree that the case may proceed.

Therefore, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. In accordance with the Confidential Competency Evaluation Report [ECF No. 92] and the letter from defense counsel dated June 29, 2021 [ECF No. 94], the Court determines that Defendant Samuel Elliott Frey is competent to understand the nature and consequences of this proceeding and assist in his defense, and that the case may proceed to trial.
2. When Frey filed his Motion for Competency Hearing on October 29, 2020, there was a change of plea hearing scheduled before the Honorable Nancy E. Brasel, United States District Judge. [ECF No. 56.] That proceeding was canceled, and the parties were advised that a new date would be scheduled. [ECF No. 64.] The parties are directed to contact the chambers of Judge Brasel to reschedule the change-of-plea hearing or schedule a trial date.

Dated: June 30, 2021

s/ Hildy Bowbeer

HILDY BOWBEER

United States Magistrate Judge